Supreme Court, U.S.
FILED
JAN 28 1986
JOSEPH F. SPANIOL, JR.
CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1985

NO. _____

JEREMY MYER,

Petitioner,

v.

PACIFIC FEDERAL SAVINGS
AND LOAN ASSOCIATION,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE STATE OF CALIFORNIA SUPREME COURT (AND TO THE RESPECTIVE LOWER CALIFORNIA COURTS)

JEREMY MYER
16783 Beach Boulevard
Huntington Beach, CA 92647
714/841-8104
Petitioner, In Pro Se

I

QUESTIONS PRESENTED FOR REVIEW

1. Since the unlawful detainer action is a summary proceeding and the Respondent, who availed himself of the statute had to bring himself clearly within its terms, whether Petitioner's rights and due process were violated by instituting and maintaining the unlawful detainer action against him and his household when any one or several of the following violations of the unlawful detainer process and action had occurred:

A. There was no perfection of title pre-requisite to the Three-Day Notice to Quit.

B. The Three-Day Notice to Quit was insufficient as to service of process.

C. The summonses and complaints were insufficient as to service of process.

D. There was no conventional land-

lord/tenant relationship.

E. The unlawful detainer action was without jurisdiction and was in excess of jurisdiction to proceed or remain at bar.

F. Jurisdiction to proceed was not established once it had been challenged.

G. Title to the subject property was the ultimate issue and this is beyond the jurisdiction of the Municipal Court in which the action was instituted.

H. Petitioner claims ownership to the subject property by purchase at the foreclosure sale, had filed a prior action in the Superior Court to press his claims, and such action is still at bar.

I. Petitioner had filed a lis pendens in the Superior Court against the subject property prior to the unlawful detainer action.

J. Petitioner asserted fraud in his prior suit against Respondent (and

others), yet the unlawful detainer action was not abated when this was made known in it.

K. The Municipal Court found Petitioner and his family in default on its own motions, yet the court records and files in the matter clearly show that there was no default at any time.

L. Due to Petitioner's prior action on the purchase and ownership issue, Respondent's unlawful detainer action was a vexatious, harassing, and unwarranted multiplicity of suit.

2. Whether, with the foregoing violations, the non-issuance of a writ of mandate/prohibition to stop the unlawful detainer action upon Petitioner's petition was a violation of Petitioner's rights and due process and/or contributed to violations of same.

3. Whether, with the foregoing viola-

tions, the non-issuance of an order abating or staying the unlawful detainer proceedings upon Petitioner's request was a violation of Petitioner's rights and due process and/or contributed to same.

4. Whether, for a court of record and/or as Petitioner petitioned in accordance with court rules, the denial of Petitioner's request for a settled statement was a violation of Petitioner's rights and due process.

5. Whether, by ignoring the clear and unambiguous case law under the doctrine of stare decisis as applied to the unlawful detainer action and related causes, Petitioner's rights and due process were violated.

6. Whether, due to all of the foregoing, such that there never was any valid jurisdiction for the unlawful detainer to proceed or remain at bar, the following

items further violated Petitioner's rights and due process, and/or denied him his full rights to appellate review:

A. The writ of execution used to oust Petitioner and his family from the subject property.

B. The denials of Petitioner's petitions for rehearing/certification to the Court of Appeal, Petitioner's motions to have the subject property returned to him and his family, Petitioner's petition for writ of certiorari to the State Court of Appeal, Petitioner's petition for review to the State Supreme Court, and related items.

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IV

OFFICIAL AND UNOFFICIAL
REPORTS OF OPINIONS
DELIVERED IN THE COURTS BELOW

(All Unpublished)

1. Pacific Federal Savings & Loan Association v. John Ray Woelke, and Does 1-10, inclusive, Case No. A 73032. (Municipal Court of California, County of Orange, North Orange County Judicial District).

2. Jeremy Myer v. The Municipal Court of the North Orange County Judicial District, (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. 42-14-46. (Superior Court of California, County of Orange).

3. Pacific Federal Savings & Loan Association v. John Ray Woelke, and Does 1-10, inclusive; Jeremy Myer v. Pacific Federal Savings & Loan Association Case No. AP-4726. (Appellate Department, Superior Court of California, County of Orange).

4. Jeremy Myer v. The Municipal Court of the North Orange County Judicial District, The Superior Court for the County of Orange, Appellate Department of the Superior Court for the County of Orange, (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. G002742. (Court of Appeal of California, Fourth Appellate District, Division Three).

5. Jeremy Myer v. The Municipal Court of the North Orange County Judicial District, The Superior Court for the County of Orange, Appellate Department of the Superior Court for the County of Orange, The Court of Appeal for the Fourth Appellate District (Division III (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. LA 32084. (The Supreme Court of the State of California).

6. Jeremy Myer v. The Superior Court for the County of Orange (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. G003059. (Court of Appeal of California, Fourth Appellate District, Division Three).

7. Jeremy Myer v. The Superior Court for the County of Orange (Pacific Federal Savings & Loan Association, Real Party In Interest), Case No. G003059. (The Supreme Court of the State of California).

V

JURISDICTION

The date of the denial of Petitioner's petition for review by the State of California Supreme Court from which this Petition for Certiorari is taken is October 30, 1985. A petition for rehearing to grant review was not accepted for filing by the Clerk of the California State Supreme Court since he determined that it was not allowed by the Rules of Court. This Petition for Certiorari was filed within ninety (90) days of the denial by the California State Supreme Court. The jurisdiction of this Court is invoked under 28 U.S.C. §1257(3).

VI

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

United States Constitution, Preamble

We the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquillity,...promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

United States Constitution, Article I, Section 10

No State shall...pass any...law impairing the obligation of contracts, or grant any title of nobility.

United States Constitution, Article VI, Clause 2

This Constitution, and the laws of

the United States which shall be made in pursuance thereof,...shall be the supreme law of the land; and the Judges in every State shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.

United States Constitution, Amendment IV

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable...seizures, shall not be violated,....

United States Constitution, Amendment V

Nor shall any person...be deprived of...property without due process of law.

United States Constitution, Amendment IX

The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

United States Constitution, Amendment X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

United States Constitution, Amendment XIV

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens...; nor shall any State deprive any person of...property, without due process of law; nor deny to any person...the equal protection of the laws.

See the Appendix for State Constitutional Provisions and Statutes Involved, for the following citations:

California Constitution:

Preamble;

Article I, Sections 1, 7 (a), 7 (b), 9, 13, 24, and 26;

Article III, Sections 1 and 3;

Article VI, Sections 1, 9, and 14;

Article XX, Section 3

California Business and Professions Code,

Section 6067

California Civil Code,

Section 13

California Code of Civil Procedure,

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VII

STATEMENT OF THE CASE

This Petition for Writ of Certiorari was instituted by Jeremy Myer (hereinafter "Myer") against Pacific Federal Savings and Loan Association (hereinafter "Pacific") for violations of the State's Unlawful Detainer statute, the State, and the United States Constitutions, as well as violations by the courts in allowing said violations to stand and, therefore, sanctioning them.

This Petition for Writ of Certiorari seeks to upset the California State Supreme Court's denial of Myer's petition for review and also all lower courts' denials and decisions against Myer (and members of his family).

Myer has no further avenue of review available in the State courts and petitions this Court due to violations of rights and due process, including the jurisdictional requirements and the procedures of the summary proceeding of the unlawful detainer action against him and his family. Myer challenged and objected to such violations and the jurisdiction to proceed in his pleadings (including his motions to quash in the Municipal Court) from the inception of the matter (as established in the records and files of all of the tribunals), including invalidities of the Three-Day Notice to Quit since there was no pre-requisite perfection of title by Pacific, insufficiencies of services of process of the Three-Day Notice to Quit and the Summonses and Complaints, and other material deficiencies, and fraud.

The violations of rights, due process, and so forth include the right and expectation of Myer to be able to present matters to the courts and on the courtroom floor in accordance with the law and to have decisions rendered accordingly and uniformly, including their being in compliance with the professional oaths of the 'legal profession' and the judges. Pacific's own submission with the application for the writ of execution in the Municipal Court proved that there was no prior, pre-requisite perfection of title to the Three-Day Notice to Quit --- Pacific's attempted perfection of title occurred eight days after the date of the Three-Day Notice to Quit and was discovered by Myer in the Municipal Court records after his/family's 'eviction': there never was any fundamental jurisdiction for the summary proceeding to be at

bar in the Municipal Court where it was instituted for this reason alone, notwithstanding that the ultimate issue is one of title which is also beyond said court's jurisdiction.

Myer was occupant of the subject property with his family before, during, and after the Trustee's Sale, and he purchased the property at said sale on October 28, 1983, in full and complete accordance with the NOTICE OF TRUSTEE'S SALE dated September 27, 1983, in which notice Pacific is the beneficiary.

Myer sent his letter dated October 28, 1983, to the auctioneer and agent of the beneficiary (Pacific) confirming his purchase and possession of the property.

Myer sent his letter dated October 31, 1983, to the beneficiary (Pacific) also confirming his purchase, with a copy of his October 28th letter attached also.

Myer filed suit in the California Orange County Superior Court on November 30, 1983, to perfect his claim, case no. 41-72-38, and Pacific is one of the defendants therein.

On December 26, 1983, Pacific's Summons and Complaint - Unlawful Detainer was found in Myer's mailbox. It had not been mailed. Said action did not refer to Myer and/or any member of his household, even after his prior letters noticing his purchase and possession of the property: the caption of the case was Pacific Federal Savings & Loan Association, Plaintiff, v. John Ray

Woelke, and Does 1-10, inclusive. (Case no. A 73032, Municipal Court, North Orange County Judicial District, State of California.)

On December 29, 1983, Myer responded in Propria Persona with his Notice of Special Continuing Appearance, Notice of Motion and Motion to Quash Service of Summons for Lack of Jurisdiction, Points and Authorities, Declaration, Judicial Notice and Notice to the Court and to Plaintiff's Attorney, and Verification. For the sake of brevity of this Petition, extracts of such documents are included in the Supplemental Appendix filed herewith so that it can be clearly seen that Myer appeared 'specially' and not 'generally', challenged the Municipal Court's jurisdiction, Judicially Noticed the court as to his ownership, purchase

and prior suit, the U.S. and California Constitutions and other appropriate items including "Plaintiff's 'perfection of title' is a fraud". Myer's Motion to Quash was denied on January 6, 1984 (Notice of Order dated 1-9-84 in the Appendix attached hereto).

(It is noted that renditions of court decisions in the Appendix show proper spellings and standard form for identification, even though the actual notice(s) from the court(s) may have misspellings, be on a different form, show a wrong court or case number, and/or be on a Notice of Order or Civil Minute Sheet, and/or notice may have been given by the opposing attorney.)

On January 13, 1984, Myer caused to be served and filed his Notice of Hear-

ing, Judicial Notice, Notice to the Court of Error; Notice to Plaintiff's Attorney; Notice of Possible Fraud; Notice of Objections; Demand for Quash of Service of Summons and Complaint for Lack of Jurisdiction, all under Special Appearance. Again, for the sake of brevity of this Petition, extracts of such documents are included in the Supplemental Appendix so that it can be clearly seen that Myer objected and raised rights and due process issues timely, including appropriate case law supportive of his position. On January 20, 1984, Myer's demand was denied as a 'motion' as per the court's Civil Minute Sheet dated January 20, 1984, and Pacific's Attorney's NOTICE OF RULING dated January 23, 1984.

In response to a 'new' Summons and Complaint from Pacific, Myer caused to be served and filed his Notice of Motion and Motion to Quash Service of Summons and Complaint for Lack of Jurisdiction on January 24, 1984, and extracts of these are part of the Supplemental Appendix herewith. The Municipal Court's NOTICE OF ORDER dated 1-25-84 shows that Myer's motion was "DISMISSED ON COURT'S OWN MOTION": Myer's motion was never heard. Myer found out about this from the court clerk on January 27, 1984, the scheduled hearing date, some time after he waited for the case to come up. Myer immediately filed with the court his Judicial Notice, Notice of Objections, Violations of Due Process & Rights which is typed in the Supplemental Appendix herewith.

On January 31, 1984, Myer filed and caused to be served in the California Orange County Superior Court his Emergency Petition for Writ of Mandate/Prohibition/Judicial Review/Justice, Ex Parte, case no. 42-14-46. This Emergency Petition included a complete, complementary EXHIBITS package showing what had transpired in the lower court by virtue of its being extracts and copies of Myer's pleadings in said court: thus the lack of jurisdiction, insufficiencies, and related issues were presented in this Emergency Petition. Appropriate extracts of the Emergency Petition have been included in the Supplemental Appendix herewith after the (next) February 10th filing. (The EXHIBITS have not been extracted (again) since appropriate extracts for these are the previous pleadings extracts). The Emergency

Petition was not granted, but it was subsequently scheduled for a formal hearing on March 12, 1984.

On February 10, 1984, Myer caused to be served and filed in the Municipal Court (case no. A 73032) his Notice of Motion and Motion to Vacate Judgment; Demand for Findings of Fact and Conclusions of Law; Points and Authorities; Declaration. Extracts show the challenge to the decision: "that an incorrect and erroneous legal basis for the decision, not consistent with and not supported by the facts, has been rendered." Also, the previously raised challenges, insufficiencies, and improprieties were reiterated, and appropriate extracts appear in the Supplemental Appendix herewith (in front of the January 31st Emergency Petition). The court's NOTICE OF ORDER

dated 2-15-84 shows that Myer's "MOTION TO VACATE JUDGMENT AND FOR FINDINGS DISMISSED ON COURT'S OWN MOTION" occurred on the same day as the filing (February 10, 1984) and without any hearing.

On February 21, 1984, Myer caused to be served his Petition for Writ of Mandate/Prohibition/Judicial Review/Justice set for hearing in the California Orange County Superior Court on March 12, 1984, case no. 42-14-46. This was totally based on the prior Emergency Petition submission. Appropriate extracts appear in the Supplemental Appendix herewith.

On March 12, 1984, the Petition for Writ of Mandate, etc., was heard, and on April 2, 1984, the 'Order Granting Writ of Mandate/Prohibition' was issued by the Superior Court Judge DENYING the Writ but

issuing a preliminary injunction based on Myer's 'related' purchase case. Myer fulfilled the terms of the preliminary injunction, but had to take the next step, as follows.

On June 1, 1984, having been denied the Writ of Mandate/Prohibition (the petition for which had brought forward the insufficiencies of the lower court's jurisdiction, etc., including the rights and due process violations), Myer caused to be served and filed in the California Orange County Superior Court, case no. 42-14-46, his Notice of Motion for Order for Abatement of Municipal Court Proceedings, or, in the Alternative, Stay of Municipal Court Proceedings, Memorandum of Points and Authorities, Declaration, and Verification. Extracts are included in the Supplemental Appendix herewith

which show the basis for the attempted abatement/stay as no jurisdiction and Pacific having caused multiplicity of suit (since Myer had a prior and related suit served and filed).

On June 7, 1984, in conjunction with the attempted Abatement/Stay, Myer caused to be served and, based on local court rule, lodged (could not file at the time) his Purgatory Oath and Declaration of Jeremy Myer for Clarification of Record with Memorandum of Points and Authorities in Support [thereof]. Appropriate extracts appear in the Supplemental Appendix herewith which show the objections to the jurisdiction and previously stated and documented insufficiencies of the unlawful detainer proceedings with appropriate references to the previous pleadings, including the January 27th JUDICIAL

NOTICE, NOTICE OF OBJECTIONS, and VIOLATIONS OF DUE PROCESS & RIGHTS. [Myer's position and his raised issues were essentially uncontested by Pacific throughout.]

The Abatement/Stay was heard on June 28, 1984, and on August 17, 1984, the California Orange County Superior Court issued its Minute Order (re-typed in the Appendix attached hereto) denying Myer's "Motion for Order for Abatement of Municipal Court Proceeding or, in the alternative, Stay of Proceedings", and taking judicial notice of the 'related' action (case no. 41-72-38). (It is noted herewith that Myer's purchase was fully admitted to via the defendants' demurrers in said 'related' case: the demurrers admitted his purchase in strict accordance with the Notice of Trustee's Sale.

However, Myer contends that such case is one of title, outside the jurisdiction of the Municipal Court.) The Minute Order is prima facie evidence that Myer's position, the law, and the facts in the unlawful detainer action were not considered by the court. Hence, it also decided on an erroneous legal basis.

On August 24, 1984, Myer received from Pacific's Attorney a copy of Pacific's REQUEST TO ENTER DEFAULT dated August 22, 1984, with the following attachments: "CORRECTED" AMENDMENT TO COMPLAINT undated; REQUEST FOR DISMISSAL "Entire action as to JOHN RAY WOELKE only, dated June 20, 1984, (Myer believes not filed previously); and Proof of Service.

On or about August 30, 1984, Myer received the MARSHAL'S OFFICE NOTICE TO

VACATE dated August 29, 1984. Myer and his household vacated within time.

On September 14, 1984, after the 'eviction', Myer went to the Municipal Court and found the following items in the court's case file of which he had not received copies previously: ORDER FOR WRIT OF POSSESSION BY CLERK - UNLAWFUL DETAINER filed on "AUG 24 1984"; NOTICE OF DEFAULT ENTRY dated "8-22-84"; Pacific's APPLICATION FOR IMMEDIATE WRIT OF POSSESSION BY CLERK UNLAWFUL DETAINER dated and filed on August 24, 1984, with the following attachments: a copy of the Three-Day Notice to Quit dated November 21, 1983, (received by Myer previously, and appropriately attacked as insufficient,) WITH Pacific's attempted (and Myer contends fraudulent) 'perfection of title' dated November 29, 1983, and

"RECORDED IN OFFICIAL RECORDS OF ORANGE COUNTY, CALIFORNIA" at '3:20 PM' "DEC 1 '83". These appear as appropriate extracts in the Appendix herewith.

THUS, by Pacific's own filing, the Three-Day Notice to Quit was dated eight (8) days BEFORE its attempted 'perfection of title' and, since the Municipal Court had acted on its 'OWN MOTION' previously, it should have reversed accordingly. Furthermore, this is prima facie evidence of the violations of the professional oaths, duties, and responsibilities. (Myer, already 'evicted', presented this evidence on appeal, but to no avail, as the extracts of his appeal show in the Supplemental Appendix attached herewith.)

Also on September 14, 1984, Myer found in the Municipal Court's file (not

previously received by him) the DECLARATION OF LINDA S. NUNEZ RE LOST OR MISPLACED ORIGINAL SUMMONS, APPLICATION TO USE COPY OF ORIGINAL SUMMONS IN PLACE OF ORIGINAL, ORDER THEREON dated August 21, 1984, filed on August 22, 1984, and so ordered by the Judge on "8-24-84". Attached to this were other documents clearly not filed until August 24, 1984, (and Myer attacked these as fraudulent, to say the least, in his Appeal to the Appellate Department of the Superior Court case no. AP-4726 as per the extracts in Part 2 of the Supplemental Appendix herewith.)

On September 19, 1984, Myer filed his NOTICE OF APPEAL of the same date in the Municipal Court (see Part 2 of the Supplemental Appendix herewith).

On September 28, 1984, Myer fi
his APPELLANT'S DESIGNATION OF RECO
and APPELLANT'S NOTICE OF SETTLED STA
MENT in the Municipal Court, both
accordance with the California Rules
Court (CRC hereafter), with extra
appearing in Part 2 of the Supplemen
Appendix ("SA2" hereafter) herewith.

On October 17, 1984, Myer caused
be served and filed his APPELLAN
STATEMENT OF ISSUES TO BE RAISED ON
PEAL AND PROPOSED SETTLED STATEMENT w
DECLARATION. Appropriate extracts app
in SA2 showing seventeen (17) items (p
sub-items) of the lack of jurisdicti
insufficiencies, and so forth, which
late to the raised issues in the es
lished records and files in both
Municipal Court (case no. A 73032)
the Superior Court (case no. 42-14-46

On October 26, 1984, Myer caused to be served and filed his APPELLANT'S CLARIFICATION OF DESIGNATION OF RECORDS (not extracted for the Petition).

On October 31, 1984, Myer received the Municipal Court's NOTICE OF HEARING SETTLED STATEMENT dated and filed on October 30, 1984, and extracted in the Appendix.

On November 29, 1984, the date of the hearing on the SETTLED STATEMENT, the judge, in the presence of Pacific's Attorney, refused to 'settle' it over and above Myer's objections (and Myer brought this into the appeal process via his "APPELLANT'S NOTICE OF MOTION TO HAVE HIS PROPOSED SETTLED STATEMENT AS FILED IN THE MUNICIPAL COURT...FORMERLY ACCEPTED BY THE [APPELLATE DEPARTMENT] COURT..."

as per the extract in Part 3 of t
Supplemental Appendix (SA3 hereafte
herewith.

On January 17, 1985, Myer caused
be served and filed his APPELLANT'S OPE
ING BRIEF IN THE APPELLATE DEPARTMENT
the Orange County Superior Court, ca
no. AP-4726 (changed from former n
AP-4482). In it, Myer re-raised all
the issues and challenges as can be se
from the extracts in SA3.

On February 19, 1985, Myer caused
be served and filed his APPELLANT'S REP
BRIEF to the previously received RESPON
ENT'S BRIEF, sustaining his earlier cha
lenges to jurisdiction and pointing o
the insufficiencies in the matter su
that the lower court's proceedings cou
not have properly remained at bar, l

alone find Myer and his family in default. Appropriate extracts in SA3 show this.

On March 18, 1985, Myer filed (caused to be served on March 17th) as part of case no. AP-4726 his APPELLANT'S NOTICE OF MOTION TO HAVE HIS PROPOSED SETTLED STATEMENT AS FILED IN THE MUNICIPAL COURT (EXHIBIT "X" ATTACHED) FORMERLY ACCEPTED BY THE COURT AS IF CERTIFIED OR, IN THE ALTERNATIVE, TO ORDER THE JUDGE OF THE MUNICIPAL COURT TO CERTIFY IT, OR IN THE SECOND ALTERNATIVE, ORDER THAT A STIPULATED RECORD BE PROVIDED; MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF. As the extracts show in SA3, such carried into the appeal process Myer's Proposed Settled Statement with appropriate support showing that such Statement should have been 'settled'

properly, and according to courts of record.

Also on March 18, 1985, (and also served on March 17th), Myer's APPELLANT'S NOTICE OF MOTION TO HAVE THE SUBJECT PROPERTY IMMEDIATELY RETURNED TO HIM AND HIS FAMILY FOR THEIR QUIET AND PEACEFUL ENJOYMENT; AND MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT THEREOF was filed as part of the Appellate Department case no. AP-4726. Support for this is found in the files and records in the matter, including APPELLANT'S OPENING BRIEF. (Extracts are included in SA3.)

After the court date of March 28, 1985, the Appellate Department issued its JUDGMENT and ORDER OF THE SUPERIOR COURT on April 1, 1985, in this case no. AP-4726 sustaining the Municipal Court's

decisions and denying Myer's motions. Said JUDGMENT and ORDER appear appropriately in the Appendix herewith.

Myer filed his APPELLANT'S PETITION FOR REHEARING OR CERTIFICATION TO THE COURT OF APPEAL in this case no. AP-4726 on April 16, 1985, (served the day before) re-raising the appropriate issues for the petitioned rehearing as the extracts in SA3 show.

On April 29, 1985, the Appellate Department issued its MINUTE ORDER (see the Appendix herewith) denying both rehearing and certification.

On May 13, 1985, Myer filed IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA, FOURTH APPELLATE DISTRICT, DIVISION III, his PETITION FOR REVIEW (CERTIORARI)

case no. G002742 asking for review of al
of the lower tribunals decisions, judg
ments, and proceedings and re-raising al
of the jurisdictional issues and insuffi
ciencies as the extracts in the SUPPLE
MENTAL APPENDIX, Part 4 ("SA4" hereafter
show. The Petition was well EXHIBITed.

The Court of Appeal denied Myer's petition three days later on May 16th (see the Appendix herewith).

On June 18, 1985, Myer lodged wit
the Court of Appeal (since it was no
accepted for filing) his PETITIONER'
NOTICE OF OBJECTIONS TO COURT'S DENIAL O
PETITIONER'S PETITION FOR WRIT OF REVIEW
Copies were served the day before o
Pacific and the lower tribunals, and wer
also mailed to the Supreme Court of th
State of California, and also to thi

Supreme Court of the United States. Extracts appear in SA4 herewith.

Myer proceeded to the California State Supreme Court on July 15, 1985, with his PETITION FOR REVIEW AND BRIEF IN SUPPORT THEREOF, case no. LA 32084, as the extracts in SA4 show. Again Myer re-raised all of his challenges: jurisdiction, insufficiencies, no perfection of title as a pre-requisite, and so forth.

On August 2, 1985, the State Supreme Court transferred the matter back to the Court of Appeal, and on August 23, 1985, the Court of Appeal again denied the petition (now case no. G003059). Both of these orders appear in the Appendix herewith.

On September 3, 1985, Myer filed another PETITION FOR REVIEW AND BRIEF IN SUPPORT THEREOF IN THE SUPREME COURT OF THE STATE OF CALIFORNIA (case no. G00305 as was the Court of Appeal's case no.). This petition was essentiallt the same as the first, and the SA4 extracts show the differences. All prior issues were re-raised.

The State Supreme Court denied review on October 30, 1985, hence this PETITION to the United States Supreme Court.

VIII

REASONS FOR GRANTING THE WRIT

The above statement of the case, as well as the extracts in the SUPPLEMENTAL APPENDIX provide details as to why the writ should issue, such that this will only be a summary statement.

Where the summary proceeding of the unlawful detainer action is not adhered to as required by statute, and there are related matters which are clearly established in the records and files in the matter which are beyond the considerations allowed for the unlawful detainer action, such that the matter does not fall within the summary proceeding jurisdictionally or statutorily, rights and due process demand that the decisions and judgments against Petitioner and his

family be reversed or vacated.

The records and files in this matte clearly show that there was absolutely n pre-requisite perfection of title; th service of process of Three-Day Notice t Quit and the the Summonses and Complaint was deficient and insufficient as to th statutory requirements; there was n conventional landlord/tenant relation- ship; the unlawful detainer action wa without and in excess of jurisdiction t proceed or remain at bar; jurisdictio to proceed was not established once i had been challenged; title to the sub- ject property is the ultimate issue, an this is beyond the jurisdiction of th Municipal Court, and Petitioner's claim to purchase ownership are on-going Petitioner's Lis Pendens public recorda- tion and filing in the Superior Cour

did not allow for jurisdiction to accrue to the Municipal Court; Petitioner asserted fraud against Respondent (and others) in his prior suit which should have been grounds for abatement of the unlawful detainer action, as well as other issues, yet it was not abated; the Municipal Court found Petitioner and his family in default on its own motions, yet the court records and files in the matter show clearly that there was no default at any time; Respondent's unlawful detainer action against Petitioner and his family was a vexatious, harassing, and unwarranted multiplicity of suit; that a writ of mandate/prohibition to stop the unlawful detainer upon Petitioner's petition was in order; that, accordingly, an order to abate or stay the unlawful detainer action upon Petitioner's request was appropriate, but was not issued; that

denial of Petitioner's request for a settled statement as part of the appeal process in accordance with California rules of court was unwarranted; that the doctrine of stare decisis has been overturned in this matter; that, due to the foregoing, the California Court of Appeal should have issued a writ of review (certiorari); and that, due to the foregoing, the California State Supreme Court should have reviewed the entire matter.

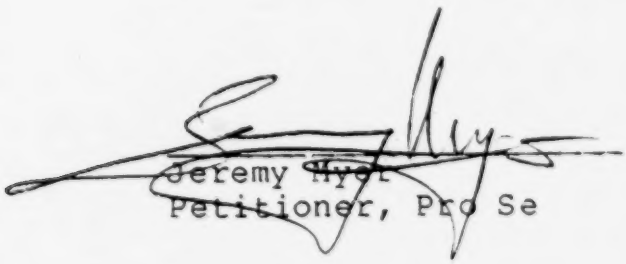
When Myer entered into this unlawful detainer matter, he knew next to nothing about it, and knew nothing of the statutes and related case law. The more he researched, the more he found that his position was actually sustained. It is apparent that Myer is in a situation whereby 'power corrupts, and absolute power corrupts absolutely' along with

'the arrogance of power'.

If the scales of justice which are the symbol of this Court and the States of the United States of America are to be kept in balance, this Court must adjust those scales by taking action to uphold and re-affirm the decisions of this Court on an individual's right to not be dispossessed of property without strict adherence to the mandates of due process of law.

Dated: January 27, 1986.

Respectfully submitted



Jeremy Hyatt
Petitioner, Pro Se

APPENDIX TO

PETITION FOR WRIT OF CERTIORARI TO

THE STATE OF CALIFORNIA SUPREME COURT

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

I N B A N K

JEREMY MYER, Petitioner, v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	Civil Action No. G003059

ORDER DENYING REVIEW

AFTER JUDGMENT BY THE COURT OF APPEAL

4th District, Division 3, No. G003059

Petition for review DENIED.

FILED: OCT 30 1985

Bird
Chief Justice

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

JEREMY MYER, Petitioner, v. SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	)	Civil Action No. G003059 (Super. Ct. No. AP-4726 & 42-14-46)

THE COURT:*

The petition for a writ of review is

DENIED.

FILED: AUG 23 1985

CROSBY

CROSBY, Acting P.J.

*Before Crsoby, Acting P.J., Wallin, J.

IN THE SUPREME COURT
OF THE STATE OF CALIFORNIA

I N B A N K

JEREMY MYER,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action
	)	No. LA 32084
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT,	)	
	)	
THE SUPERIOR COURT FOR THE COUNTY OF ORANGE,	)	
	)	
APPELLATE DEPARTMENT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE,	)	
	)	
THE COURT OF APPEAL, FOURTH APPELLATE DISTRICT, DIVISION III,	)	
	)	
Respondents,	)	
	)	
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION,	)	
	)	
Real Party in Interest.	)	

The above entitled matter is transferred to the Court of Appeal, Fourth Appellate District, Division Three. (See Hagan v. Superior Court (1962) 57 Cal.2d

767.)

FILED: AUG 2 1985

BIRD, C. J.
Chief Justice

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

JEREMY MYER,	)	
	)	
Petitioner,	)	
	)	
v.	)	Civil Action
	)	No. G002742
THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT,	)	(Super. Ct. No. AP-4726 & 42-14-46)
THE SUPERIOR COURT FOR THE COUNTY OF ORANGE,	)	
	)	
APPELLATE DEPARTMENT, THE SUPERIOR COURT FOR THE COUNTY OF ORANGE,	)	
	)	
Respondents,	)	
	)	
PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION,	)	
	)	
Real Party in Interest.	)	
	)	

O R D E R

THE COURT:*

The petition for a writ of review is

DENIED.

FILED: MAY 16 1985

TROTTER, Presiding Justice

* Before Trotter, P.J., Wallin, J. and Woolley, Judge **

** Assigned by Chairperson of the Judicial Council

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. AP-4726 (Super. Ct. No.42-14-46) (Munic. Ct. No. A 73032)
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	

Petition for rehearing or in the alternative, Petition for certification to the Court of Appeal having been timely filed and the Court having considered the Petitions and reviewed the record; does now

rule, the Petitions and each of them are hereby denied. ENT. 4-29-85

HONS. McLAUGHLIN; BEACOM;

HON. DOMENICHINI,
Acting Presiding Judge

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	Civil Action No. AP-4726 (Super. Ct. No.42-14-46) (Munic. Ct. No. A 73032)
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	)	

JUDGMENT & ORDER OF SUPERIOR COURT

This matter having been taken under submission, the Court now rules:

Appellant's motions regarding the proposed settled statement, and to have

the subject property immediately returned to him and his family are hereby denied. Further it is ordered that the order awarding plaintiff restitution of the premises made and entered in the North Orange County Municipal Court is hereby affirmed.

ENT. 4-1-85.

HONS. McLAUGHLIN; BEACOM;

HON. DOMENICHINI,
Acting Presiding Judge

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

APPELLATE DEPARTMENT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	Civil Action No. AP-4726 (Super. Ct. No.42-14-46) (Munic. Ct. No. A 73032)
JEREMY MYER, et al., Appellant, v. PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Respondent.	ON APPEAL from the MUNICIPAL COURT of the NORTH ORANGE COUNTY JUDICIAL DISTRICT

HON. LOGAN MOORE, JUDGE
HON. LINDA LANCET MILLER, JUDGE

This cause having been argued and submitted, and fully considered, judgment is ordered as follows:

It is ORDERED AND ADJUDGED that the

order awarding plaintiff restitution of the premises made and entered in the Municipal Court of the above designated Judicial District, County of Orange, State of California, in the above entitled cause be and the same is hereby affirmed.

The cause is remanded to the Municipal Court for further proceedings.

Dated this 1st day of April, 1985.

Domenichini
Frank Domenichini, Acting Presiding Judge

McLaughlin
Linda Hodge McLaughlin, Judge

Beaacom
Richard J. Beacom, Judge

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION,	)	
Plaintiff,	)	
v.	)	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive,	)	
Defendants.	)	

ORDER FOR WRIT OF POSSESSION BY CLERK
UNLAWFUL DETAINER

In this action the Defendant(s) JEREMY MYER, MRS. JEREMY MYER, LISA MYER having been regularly served with summons and copy of complaint, having failed to appear and answer the complaint of Plaintiff(s) within the time allowed by law, and the default of said Defendant(s) having been duly entered, upon application of Plaintiff(s) pursuant to C.C.P. § 1169, the Clerrk entered the following judgment:

That Plaintiff(s) do have and recover from Defendant(s) JEREMY MYER, MRS. JEREMY MYER, LISA MYER

the restitution and possession of those certain premises situated, lying and being in the City of Anaheim, County of Orange, State of California, and is described as follows: 4358 ADDINGTON DRIVE, ANAHEIM, CA

DOES 4-10 DISMISSED.

FILED: AUG 24 1984

8-28-84 writ issued

ROBERT R. RILL
CLERK OF THE COURT

By Sandra K. Reid,
Deputy

NOTICE OF DEFAULT ENTRY

In this action the defendant JEREMY MYER, MRS. JEREMY MYER, LISA MYER having been regularly served with summons in the manner required by law, and having failed to appear and answer the plaintiff's complaint on file herein, and the time for answering having expired, the default of said defendant _____ is hereby duly entered according to law.

I declare under the penalty of perjury that the foregoing is true and correct.

date 8-22-84

ROBERT R. RILL
Clerk of the above entitled court

By Patricia Crawford
deputy clerk

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

DEPARTMENT 23

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	Civil Action No. 42-14-46 (Munic. Ct. No. A 73032)

The Court having taken the matter under submission on 6-28-84 hereby rules as follows: Motion for Order for Abatement of Municipal Court Proceeding or, in the alternative, Stay of Proceedings : Denied. Pursuant to Ca. Evidence Code Sections 451, 452, this Court takes judicial notice of Orange County Superior Court action Myer vs. Ragland

(#41-72-38) and specifically the order sustaining the Demurrer to the First Amended Complaint without leave to amend. Elimination of said action (#41-72-38) negates the need for an affirmative ruling in this matter (#42-14-46). The preliminary injunction signed April 2, 1984 staying North Orange County Action A-73032 (Pacific Federal Savings and Loan vs. Myer) is hereby dissolved. Clerk to give notice. ENTERED: 8-17-84

Hon. WILLIAM SHEFFIELD, Judge

IN THE SUPERIOR COURT
OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ORANGE

DEPARTMENT 23

JEREMY MYER, Petitioner, v. THE MUNICIPAL COURT OF THE NORTH ORANGE COUNTY JUDICIAL DISTRICT, Respondent, PACIFIC FEDERAL SAVINGS AND LOAN ASSOCIATION, Real Party in Interest.	Civil Action No. 42-14-46 ORDER GRANTING[SIC] [DENYING] WRIT OF MANDATE/ PROHIBITION (Munic. Ct. No. A 73032)

The Writ of Mandate/Prohibition as requested by petitioner and taken under submission on March 12, 1984, is hereby denied. While documents presented to this Court are unintelligible as to the relief sought, it appears that petitioner Myer wishes this Court to restrain the continuation of an unlawful detainer action in Municipal Court. Therefore,

this Court construing the petition as a request for injunctive relief, hereby orders that a preliminary injunction issue staying North Orange County Action A-73032 (Pacific Federal Savings and Loan vs. Myer) for a period of forty-five days upon condition that petitioner post a $50.00 bond (CCP 529). The Superior Court has the authority to stay an eviction proceeding based upon the Code of Civil Procedure Sec. 526 which permits a preliminary injunction to issue to preserve the status quo on such grounds as irreparable injury, multiplicity of legal actions or unconscionable relative hardship (Asuncion (1980) 108 CA3d 141, citing Continental Baking Co. (1968) 68 C2d 512).

While this Court is cognizant of the fact that the summary unlawful detainer

action is generally not suitable to try ownership issues as stated in Asuncion, supra. (distinguishable on its facts from the matter at bar) "Homeowners cannot be evicted consistent with due process guarantees, without being permitted to raise defenses which if proved would maintain their possession and ownership". The facts at bar show that the Municipal Court unlawful detainer action seeks possession stemming from the foreclosure of a Trust Deed which sale Myer seeks to invalidate in action #41-72-38 (Myer vs. Ragland, et al.). The purpose behind this Court's issuing its stay order is to allow Myer an opportunity to correct his pleadings and file a viable Superior Court action; should he be successful in this attempt, it would then be incumbent upon him to seek the appropriate relief to maintain this stay.

DATED: April 2, 1984.

WILLIAM SHEFFIELD

WILLIAM SHEFFIELD
Judge of the Superior Court

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	Civil Action No. A 73032

NOTICE OF ORDER

I certify that the following order as shown was entered on 2-10-84

HONORABLE LOGAN MOORE, JUDGE DIV. 18

MOTION TO VACATE JUDGMENT AND FOR FINDINGS DISMISSED ON COURT'S OWN MOTION.

dated 2-15-84 FILED: FEB 15 1984

ROBERT R. RILL

Clerk of the above entitled court

By Sandra K. Reid
Deputy clerk

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION,	)	
Plaintiff,	)	
v.	)	Civil Action No. A 73032
JOHN RAY WOELKE, and DOES 1-10, inclusive,	)	
Defendants.	)	

NOTICE OF ORDER

I certify that the following order as shown was entered on 1-25-84

HONORABLE LOGAN MOORE, JUDGE DIV. 18

MOTION TO QUASH FILED 1-24-84 IS DISMISSED ON COURT'S OWN MOTION.

DEFAULT MAY BE ENTERED AT PLAINTIFF'S DISCRETION.

dated 1-25-84 FILED: JAN 25 1984

ROBERT R. RILL
Clerk of the above entitled court

By Sandra K. Reid
Deputy clerk

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	Civil Action No. A 73032

CIVIL MINUTE SHEET

Court convened JAN 20 1984

Hon. LINDA LANCET MILLER, Judge

Motion to Quash denied.

Plaintiff to give notice.

Linda Lancet Miller, Judge

IN THE MUNICIPAL COURT OF CALIFORNIA
COUNTY OF ORANGE
NORTH ORANGE COUNTY JUDICIAL DISTRICT

PACIFIC FEDERAL SAVINGS & LOAN ASSOCIATION, Plaintiff, v. JOHN RAY WOELKE, and DOES 1-10, inclusive, Defendants.	)	Civil Action No. A 73032

NOTICE OF ORDER

I certify that the following order as shown was entered on 1-6-84

HON JUDGE LOGAN MOORE DIV. 18

MOTION TO QUASH DENIED.

dated 1-9-84 FILED: JAN 9 1984

ROBERT R. RILL

Clerk of the above entitled court

By Esther Z. Duron
Deputy clerk

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

(See citations in the Petition)

California Constitution, Preamble

We, the People of the State of California, greatful to Almighty God for our freedom, in order to secure and perpetuate its blessings, do establish this Constitution.

California Constitution, Article I, Section 1

All people are by nature free and independant and have inalienable rights. Among these are enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining safety, happiness and privacy.

California Constitution, Article I, Section 7(a)

A person may not be deprived of... property without due process of law or denied equal protection of the laws;....

California Constitution, Article I, Section 7(b)

A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens.

California Constitution, Article I, Section 9

A...law impairing the obligation of contracts may not be passed.

California Constitution, Article I, Section 13

The right of the people to be secure

in their persons, houses, papers, and effects against unreasonable seizures... may not be violated;....

California Constitution, Article I, Section 24

Rights guaranteed by this Constitution are not dependant on those guaranteed by the United States Constitution. This declaration of rights may not be construed to impair or deny others retained by the people.

California Constitution, Article I, Section 26

The provisions of this Constitution are mandatory and prohibitory, unless by express words they are to be declared otherwise.

California Constitution, Article III, Section 1

The State of California is an inseparable part of the United States of America, and the United States Constitution is the supreme law of the land.

California Constitution, Article III, Section 3

The powers of the state government are legislative, executive and judicial. Persons charged with the exercise of one power may not exercise either of the others except as permitted by this Constitution.

California Constitution, Article VI, Section 1

The judicial power of this State is vested in the Supreme Court, courts of appeal, superior courts, municipal

courts, and justice courts. All except justice courts are courts of record.

California Constitution, Article VI, Section 9

The State Bar of California is a public corporation. Every person admitted and licensed to practice law in this State is and shall be a member of the State Bar except while holding office as a judge of a court of record.

California Constitution, Article VI, Section 14

Decisions of the...courts of appeal that determine causes shall be in writing with reasons stated.

California Constitution, Article XX, Section 3

All public officers and employees, executive, legislative, and judicial, except such inferior officers and employees as may be by law exempted, shall before they enter upon the duties of their respective offices, take and subscribe the following oath or affirmation: "I, _____, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully dis-

charge the duties upon which I am about to enter.

"....".

California Business and Professions Code, Section 6067

Every person on his admission [to practice law] shall take an oath to support the Constitution of the United States and the Constitution of the State of California,....

CALIFORNIA CIVIL CODE
SECTION 13
(CC §13 or CC Sec. 13)

Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or defintion.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 4
(CCP §4 or CCP Sec. 4)

The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this code. The code establishes the law of this State respecting the subjects to which it relates, and its provisions and all proceedings under it are to be liberally construed, with a view to effect its objects and to promote justice.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 16
(CCP §16 or CCP Sec. 16)

Words and phrases are construed according to the context and the approved usage of the language; but technical words and phrases, and such others as have acquired a peculiar and appropriate meaning in law, or are defined in the succeeding section, are to be construed according to such peculiar and appropriate meaning or defintion.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 369
(CCP §369 or CCP Sec. 369)

An executor or administrator, or trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him the persons for whose benefit the action is prosecuted. A person with whom, or in whose name, a contract is made for the benefit of another, is a trustee of an express trust, within the meaning of this section.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 371
(CCP §371 or CCP Sec. 371)

If a husband and wife are sued together, each may defend for his or her own right, but if one spouse neglects to defend, the other spouse may defend for that spouse's right also.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 409
(CCP §409 or CCP Sec. 409)

a) In an action concerning real property or affecting the title or the right of possession of real property, the plaintiff, at the time of filing the complaint, and the defendant, at the time of filing a cross-complaint, or at any time afterward, may record in the office of the recorder of the county in which the property is situated, a notice of the pendency of the action, containing the names of the parties, and the object of the action or cross-action, and a description of the property in that county affected thereby. This section authorizes a notice of an action concerning real property pending in any United States district court to be recorded and indexed in the same manner and in the same place as herein provided with respect to

notices of action pending in courts of this state. From the time of filing such notice for record only, shall a purchases or encumbrancer of the property affected thereby be deemed to have constructive notice of the pendency of the action as it relates to the real property and only of its pendency against parties designated by their real names.

(b) The person causing the notice of the pendency of the action to be recorded shall first cause a copy of the notice to be served upon the other party, by first class mail, return receipt requested, mailed to all known addresses of the adverse parties and all owners of record as shown by the county assessor's office. A copy of the notice of the pendency of the action shall also be filed with the court in which the lawsuit is filed. Service shall also be made imme-

ditely upon each adverse party who is later brought into the action pursuant to Section 472 or 473.

(c) Any notice of the pendency of the action recorded pursuant to subdivision (a) shall be void and invalid as to any adverse party or owner of record, unless the requirements of subdivision (b) are met for the party or owner, and a proof of service, as set forth in Section 1013a, has been recorded with the notice of the pendency of the action. If there is no known address for service on an adverse party or owner as required under subdivision (b) above, then as to that party a declaration under penalty of perjury to such effect shall be recorded instead of the proof of service described above and the service on that party shall not be required.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 415.20(b)
(CCP §415.20(b) or CCP Sec. 415.20(b))

(b) If a copy of the summons and of the complaint cannot with reasonable diligence be personally delivered to the person to be served as specified in Section 416.60, 416.70, 416.80, or 416.90, a summons may be served by leaving a copy of the summons and of the complaint at such person's dwelling house, usual place of abode, or usual place of business in the presence of a competent member of the household or a person apparently in charge of his office or place of business, at least 18 years of age, who shall be informed of the contents thereof, and by thereafter mailing a copy of the summons and of the complaint (by first-class mail, postage prepaid) to the person to be served at the place where a copy of the summons and of the complaint were

left. Service of a summons in this manner is deemed complete on the 10th day after such mailing.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 416.90
(CCP §416.90 or CCP Sec. 416.90)

A summons may be served on a person not otherwise specified in this article by delivering a copy of the summons and of the complaint to such person or to a person authorized by him to receive service of process.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 413.10
(CCP §418.10 or CCP Sec. 418.10)

(a) A defendant, on or before the last day of his time to plead or within such further time as the court may for good cause allow, may serve and file a notice of motion either or both:

(1) To quash service of summons on the ground of lack of jurisdiction of the court over him.

(2) To stay or dismiss the action on the ground of inconvenient forum.

(b) Such notice shall designate, as the time for making the motion, a date not less than 10 nor more than 20 days after filing of the notice. The service and filing of the notice shall extend the defendant's time to plead until 15 days after service upon him of a written

notice of entry of an order denying his motion, except that for good cause shown the court may extend the defendant's time to plead for an additional period not exceeding 20 days.

(c) If such motion is denied by the trial court, the defendant, within 10 days after service upon him of a written notice of entry of an order of the court denying his motion, or within such further time not exceeding 20 days as the trial court may for good cause allow, and before pleading, may petition an appropriate reviewing court for a writ of mandate to require the trial court to enter its order quashing the service of summons or staying or dismissing the action. The defendant shall file or enter his responsive pleading in the trial court within the time prescribed by subdivision (b) unless, on or before the last day of his

time to plead, he serves upon the adverse party and files with the trial court a notice that he has petitioned for such writ of mandate. The service and filing of such notice shall extend his time to plead until 10 days after service upon him of a written notice of the final judgment in the mandate proceeding. Such time to plead may for good cause shown be extended by the trial court for an additional period not exceeding 20 days.

(d) No default may be entered against the defendant before expiration of his time to plead, and no motion under this section, or under Section 473 or 473.5 when joined with a motion under this section, or application to the court or stipulation of the parties for an extension of the time to plead, shall be deemed a general appearance by the defendant.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 430.10
(CCP §430.10 or CCP Sec. 430.10)

The party against whom a complaint or cross-complaint has been filed may object, by demurrer or answer as provided in Section 430.30, to the pleading on any one or more of the following grounds:

(a) The court has no jurisdiction of the subject of the cause of action alleged in the pleading.

(b) The person who filed the pleading does not have the legal capacity to sue.

(c) There is another action pending between the same parties on the same cause of action.

(d) There is a defect or misjoinder of the parties.

(e) The pleading does not state facts sufficient to constitute a cause of action.

(f) The pleading is uncertain. As used in this subdivision, "uncertain" includes ambiguous and unintelligible.

(g) In an action founded upon a contract, it cannot be ascertained from the pleading whether the contract is written, or whether it is implied by conduct.

(h) No certificate was filed as required by Section 411.30 or 411.35.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 474
(CCP §474 or CCP Sec. 474)

When the plaintiff is ignorant of the name of a defendant, he must state that fact in the complaint, or the affidavit if the action is commenced by affidavit, and such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered, the pleading or proceeding must be amended accordingly; provided, that no default or default judgment shall be entered against a defendant so designated, unless it appears that the copy of the summons or other process, or, if there be no summons or process, the copy of the first pleading or notice served upon such defendant bore on the face thereof a notice stating in substance: "To the person served: You are hereby served in the within action (or proceed-

ings) as (or on behalf of) the person sued under the fictitious name of (designating it)." The certificate or affidavit of service must state the fictitious name under which such defendant was served and the fact that notice of identity was given by endorsement upon the document served as required by this section. The foregoing requirements for entry of a default or default judgment shall be applicable only as to fictitious names designated pursuant to this section and not in the event the plaintiff has sued the defendant by an erroneous name and shall not be applicable to entry to a default or default judgment based upon service, in the manner otherwise provided by law, of an amended pleading, process or notice designating defendant by his true name.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 597
(CCP §597 or CCP Sec. 597)

When the answer pleads that the action is barred by the statute of limitations, or by a prior judgment, or that another action is pending upon the same cause of action, or sets up any other defense not involving the merits of the plaintiff's cause of action but constituting a bar or ground of abatement to the prosecution thereof, the court may, either upon its own motion or upon the motion of any party, proceed to the trial of such special defense or defenses before the trial of any other issue in the case, and if the decision of the court, or the verdict of the jury, upon any special defense so tried (other than the defense of another action pending) is in favor of the defendant pleading the same, judgment for such defendant shall

thereupon be entered and no trial of other issues in the action shall be had unless such judgment shall be reversed on appeal or otherwise set aside or vacated; and where the defense of another action pending is sustained (and no other special defense is sustained) an interlocutory judgment shall be entered in favor of the defendant pleading the same to the effect that no trial of other issues shall be had until the final determination of such other action, and the plaintiff may appeal from such interlocutory judgment in the same manner and within the same time as is now or may be hereafter provided by law for appeals from judgments. If the decisions of the court, or the verdict of the jury, upon the special defense or defenses so tried shall be in favor of the plaintiff, trial of the other issues shall thereafter be

had either upon the court's own motion or upon the motion of any party, and judgment shall be entered thereon in the same manner and with the same effect as if all the issues in the case had been tried at one time. In such event any and all decisions or verdicts upon such special defense or defenses, and all rulings on the trial thereof shall be deemed excepted to and may be reviewed on motion for a new trial or upon appeal from such judgment.

The provisions of this section shall also apply to the trial of special defenses pleaded in an answer to a cross-complaint, and if the decision of the court or the verdict of the jury upon the special defense or defenses shall be in favor of the cross-defendant, no further trail shall be had upon the issues raised by the cross-complaint, but trial of the

other issues in the action shall thereafter be had either upon the court's own motion or upon the motion of any party, and after the trial thereof such judgment shall be entered in the action as shall be justified by the decision or verdict on such other issues, considered in connection with the decision or verdict upon the trial of such affirmative defense raised in the answer to the cross-complaint.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 663
(CCP §663 or CCP Sec. 663)

A judgment or decree, when based upon a decision by the court, or the special verdict of a jury, may, upon motion of the party aggrieved, be set aside and vacated by the same court, and another and different judgment entered, for either of the following causes, materially affecting the substantial rights of the party and entitling the party to a different judgment:

1. Incorrect or erroneous legal basis for the decision, not consistent with or not supported by the facts; and in such case when the judgment is set aside, the statement of decision shall be amended and corrected.

2. A judgment or decree not consistent with or not supported by the special verdict.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 663a
(CCP §663a or CCP Sec. 663a)

The party intending to make the motion mentioned in the last section must file with the clerk and serve upon the adverse party a notice of his intention, designating the grounds upon which the motion will be made, and specifying the particulars in which the conclusions of law are not consistent with the finding of facts or in which the judgment or decree is not consistent with the special verdict, either

1. Before the entry of judgment;

2. Within 15 days of the date of mailing of notice of entry of judgment by the clerk of the court pursuant to Section 664.5, or service upon him by any party of written notice of entry of judgment, or within 180 days after the entry of judgment, whichever is earliest.

The provisions of Section 1013 of this code extending the time for exercising a right or doing an act where service is by mail shall not apply to extend the time above specified.

An order of the court granting such motion may be reviewed on appeal in the same manner as a special order made after final judgment.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 904.1
(CCP §904.1 or CCP Sec. 904.1)

An appeal may be taken from a superior court in the following cases:

(a) From a judgment, except (1) an interlocutory judgment, other than as provided in subdivisions (h), (i) and (j), (2) a judgment of contempt which is made final and conclusive by Section 1222, or (3) a judgment on appeal from a municipal court or a justice court or a small claims court or (4) a judgment granting or denying a petition for issuance of a writ of mandamus or prohibition directed to a municipal court or a justice court or the judge or judges thereof which relates to a matter pending in the municipal or justice court. However, an appellate court may, in its discretion, review a judgment granting or denying a petition for issuance of a writ

of mandamus or prohibition upon petition for an extraordinary writ.

(b) From an order made after a judgment made appealable by subdivision (a).

(c) From an order granting a motion to quash service of summons or granting a motion to stay or dismiss the action on the ground of inconvenient forum.

(d) From an order granting a new trial or denying a motion for judgment notwithstanding the verdict.

(e) From an order discharging or refusing to discharge an attachment or granting a right to attach order.

(f) From an order granting or dissolving an injunction, or refusing to grant dissolve an injunction.

(g) From an order appointing a receiver.

(h) From an interlocutory judgment,

order, or decree, hereafter made or entered in an action to redeem real or personal property from a mortgage thereof, or a lien thereon, determining the right to redeem and directing an accounting.

(i) From an interlocutory judgment in an action for partition determining the rights and interests of the respective parties and directing partition to be made.

(j) From an order or decree made appealable by the provisions of the Probate Code.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1013a
(CCP §1013a or CCP Sec. 1013a)

Proof of service by mail may be made by one of the following methods:

(1) An affidavit setting forth the exact title of the document served and filed in the cause, showing the name and residence or business address of the person making the service, showing that he or she is a resident of or employed in the county where the mailing occurs, that he or she is over the age of 18 years and not a party to the cause, and showing the date and place of deposit in the mail, the name and address of the person served as shown on the envelope, and also showing that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid.

(2) A certificate setting forth the exact title of the document served and

filed in the cause, showing the name and business address of the person making the service, showing that he or she is an active member of the State Bar of California and is not a party to the cause, and showing the date and place of deposit in the mail, the name and address of the person served as shown on the envelope, and also showing that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid.

(3) In case of service by the clerk of a court of record, a certificate by that clerk setting forth the exact title of the document served and filed in the cause, showing the name of the clerk and the name of the court of which he or she is the clerk and that he or she is not a party to the cause, and showing the date and place of deposit in the mail, the name and address of the person served as

shown on the envelope, and also showing that the envelope was sealed and deposited in the mail with the postage thereon fully prepaid.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1068
(CCP §1068 or CCP Sec. 1068)

A writ of review may be granted by any court, except a municipal or justice court, when an inferior tribunal, board, or officer, exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor, in the judgment of the court, any plain, speedy, and adequate remedy.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1069
(CCP §1069 or CCP Sec. 1069)

The application must be made on the verified petition of the party beneficially interested, and the court may require a notice of the application to be given to the adverse party, or may grant an order to show cause why it should not be allowed or may grant the writ without notice.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1085
(CCP §1085 or CCP Sec. 1085)

It may be issued by any court, except a municipal or justice court, to any inferior tribunal, corporation, board, or person, to compel the performance of an act which the law specially enjoins, as a duty resulting from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he is entitled, and from which he is unlawfully precluded by such inferior tribunal, corporation, board, or person.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1086
(CCP §1086 or CCP Sec. 1086)

The writ must be issued in all cases where there is not a plain, speedy, and adequate remedy, in the ordinary course of law. It must be issued upon the verified petition of the party benefically interested.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1102
(CCP §1102 or CCP Sec. 1102)

The writ of prohibition arrests the proceedings of any tribunal, corporation, board, or person exercising judicial functions, when such proceedings are without or in excess of the jurisdiction of such tribunal, corporation, board or person.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1103
(CCP §1103 or CCP Sec. 1103)

It may be issued by any court, except municipal or justice courts, to an inferior tribunal or to a corporation, board, or person, in all cases where there is not a plain, speedy, and adequate remedy in the ordinary course of law. It is issued upon the verified petition of the person beneficially interested.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1107
(CCP §1107 or CCP Sec. 1107)

When an application is filed for the issuance of any prerogative writ, the application shall be accompanied by proof of service of a copy thereof upon the respondent and the real party in interest named in such application. The provisions of Chapter 5 (commencing with Section 1010) of Title 14 of Part 2 shall apply to the service of the application. However, when a writ of mandate is sought pursuant to the provisions of Section 1088.5, the action may be filed and served in the same manner as an ordinary action under Part 2 (commencing with Section 307). Where the real party in respondent's interest is a board or commission, the service shall be made upon the presiding officer, or upon the secretary, or upon a majority of the mem-

bers of the board or commission. Within five days after service and filing of the application, the real party in interest or the respondent or both may serve upon the applicant and file with the court points and authorities in opposition to the granting of the writ.

The court in which the application is filed, in its discretion and for good cause, may grant the application ex parte, without notice or service of the application as herein provided.

The provisions of this section shall not be applicable to applications for the writ of habeas corpus, or to applications for writs of review of the Industrial Accident of Public Utilities Commissions.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1161
(CCP §1161 or CCP Sec. 1161)

A tenant of real property, for a term less than life, or the executor or administrator of his estate heretofore qualified and act, is guilty of unlawful detainer:

1. When he continues in possession, in person or by subtenant, of the property, or any part thereof, after the expiration of the term for which it is let to him; provided such expiration is of a nondefault nature however brought about without the permission of his landlord, or the successor in estate of his landlord, if any there be; including the case where the person to be removed became the occupant of the premises as a servant, employee, agent, or licensee and the relation of master and servant or employer and employee or principal and

agent or licensor and licensee has been lawfully terminated or the time fixed for such occupancy by the agreement between the parties has expired; but nothing in this subdivision contained shall be construed as preventing the removal of such occupant in any other lawful manner; but in case of a tenancy at will, it must first be terminated by notice, as prescribed in the Civil Code.

2. When he continues in possession, in person or by subtenant, without the permission of his landlord, or the successor in estate of his landlord, if any there be, after default in the payment of rent, pursuant to the lease or agreement under which the property is held, and three days' notice, in writing, requiring its payment, stating the amount which is due, or possession of the property, shall have been served upon him

and if there is a subtenant in actual occupation of the premises, also upon such subtenant.

Such notice may be served at any time within one year after the rent becomes due. In all cases of tenancy upon agricultural lands, where the tenant has held over and retained possession for more than 60 days after the expiration of the term without any demand of possession or notice to quit by the landlord, or the successor in estate of his landlord, if any there be, he shall be deemed to be holding by permission of the landlord or successor in estate of his landlord, if any there be, and shall be entitled to hold under the terms of the lease for another full year, and shall not be guilty of an unlawful detainer during said year, and such holding over the period aforesaid shall be taken and construed as a

consent on the part of a tenant to hold for another year.

3. When he continues in possession, in person or by subtenant, after a neglect or failure to perform other conditions or covenants of the lease or agreement under which the property is held, including any covenant not to assign or sublet, than the one for the payment of rent, and three days' notice, in writing, requiring the performance of such conditions or covenants, or the possession of the property, shall have been served upon him, and if there is a subtenant in actual occupation of the premises, also, upon such subtenant. Within three days after the service of the notice, the tenant, or any subtenant in actual occupation of the premises, or any mortgagee of the term, or other person interested in its continuance,

may perform the conditions or covenants of the lease or pay the stipulated rent, as the case may be, and thereby save the lease from forfeiture; provided, if the conditions and covenants of the lease, violated by the lessee, cannot afterward be performed, then no notice, as last prescribed herein, need be given to said lessee or his subtenant, demanding the performance of the violated conditions or covenants of the lease.

A tenant may take proceedings, similar to those prescribed in this chapter, to obtain possession of the premises let to a subtenant or held by a servant, employee, agent, or licensee, in case of his unlawful detention of the premises underlet to him or held by him.

4. Any tenant, subtenant, or executor or administrator of his estate heretofore qualified and now acting, or here-

after to be qualified and act, assigning or subletting or committing waste upon the demised premises, contrary to the conditions or covenants of his lease, or maintaining committing, or permitting the maintenance or commission of a nuisance upon the demised premises or using such premises for an lawful purpose, thereby terminates the lease, and the landlord, or his successor in estate, shall upon service of three days' notice to quit upon the person or persons in possession, be entitled to restitution of possession of such demised premises under the provisions of this chapter.

5. When he gives written notice as provided in Section 1946 of the Civil Code of his intention to terminate the hiring of the real property, or makes a written offer to surrender which is accepted in writing by the landlord, but

time specified in said written notice, without the permission of his landlord, or the successor in estate of the landlord, if any there be.

As used in this section, tenant includes any person who hires real property except those persons whose occupancy is described in subdivision (b) of Section 1940 to Civil Code.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1161a
(CCP §1161a or CCP Sec. 1161a)
(Effective until 7/1/84)

In any of the following cases, a person who holds over and continues in possession of real property after a three-day written notice to quit the property has been served upon the person, or if there is a subtenant in actual occupation of the premises, also upon such subtenant, as prescribed in Section 1162, may be removed therefrom as prescribed in this chapter:

1. Where the property has been sold pursuant to a writ of execution against such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

2. Where the property has been sold pursuant to a writ of sale, upon the foreclosure by proceedings taken as pre-

scribed in this code of a mortgage, or under an express power of sale contained therein, executed by such person, or a person under whom such person claims, and the title under the foreclosure has been duly perfected.

3. Where the property has been sold in accordance with Section 2924 of the Civil Code, under a power of sale contained in a deed of trust executed by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

4. Where the property has been sold by such person, or a person under whom such person claims, and the title under the sale has been duly perfected.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1162
(CCP §1162 or CCP Sec. 1162)

The notices required by sections 1161 and 1161a may be served, either:

1. By delivering a copy to the tenant personally; or,

2. If he be absent from his place of residence, and from his usual place of business, by leaving a copy with some person of suitable age and discretion at either place, and sending a copy through the mail addressed to the tenant at his place of residence; or,

3. If such place of residence and business cannot be ascertained, or a person of suitable age or discretion there cannot be found, then by affixing a copy in a conspicuous place on the property, and also delivering a copy to a person there residing, if such person can be found; and also sending a copy

through the mail addressed to the tenant at the place where the property is situated. Service upon a subtenant may be made in the same manner.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1166
(CCP §1166 or CCP Sec. 1166)

The plaintiff, in his complaint, which shall be verified, must set forth the facts on which he seeks to recover, and describe the premises with reasonable certainty, and may set forth therein any circumstances of fraud, force or violence which may have accompanied the alledged forcible entry or forcible or unlawful detainer, the claim damages therefore. In case the unlawful detainer charged is after default in the payment of rent, the complaint must state the amount of such rent. Upon filing the complaint, a summons must be issued thereon.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1167
(CCP §1167 or CCP Sec. 1167)

The summons shall be in the form specfied in Section 412.20 except that the defendant's time to respond to the complaint is five days after the summons is served upon him.

In all other respects the summons shall be issued and served and returned in the same manner as a summons in a civil action.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1167.3
(CCP §1167.3 or CCP Sec. 1167.3)

In any action under this chapter, unless otherwise ordered by the court for good cause shown, the time allowed the defendant to answer the complaint, answer the complaint, if amended, or amend the answer under subdivision (2), (3), (5) or (6) of Section 586 shall not exceed five days.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1167.4
(CCP §1167.4 or CCP Sec. 1167.4)

Notwithstanding any other provision of law, in any action under this chapter:

(a) Where the defendant files a notice of motion as provided for in subdivision (a) of Section 418.10, the time for making the motion shall be not less than three days nor more than seven days after the filing of the notice.

(b) The service and filing of a notice of motion under subdivision (a) shall extend the defendent's time to plead until five days after service upon him of the written notice of entry of an order denying his motion, except that for good cause shown the court may extend the defendant's time to plead for an additional period not exceeding 15 days.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1169
(CCP §1169 or CCP Sec. 1169)

If at the time appointed any defendant served with a summons does not appear and defend, the clerk, or the judge if there is no clerk, upon written application of the plaintiff and proof of the service of summons and complaint, shall enter the default of any defendant so served, and, if requested by the plaintiff, immediately shall enter judgment for restitution of the premises and shall issue a writ of execution thereon. Thereafter, the plaintiff may apply to the court for any other relief demanded in the complaint, including the costs, against the defendant, or defendants, or against one or more of the defendants.

CALIFORNIA CODE OF CIVIL PROCEDURE
SECTION 1177
(CCP §1177 or CCP Sec. 1177)

Except as otherwise provided in this chapter the provisions of part two of this code are applicable to, and constitute the rules of practice in the proceedings mentioned in this chapter.

CCP Part II Civil Actions §§ 307-1062a

CCP Part III Special Proceedings §§ 1063-1833.2

CALIFORNIA EVIDENCE CODE
SECTION 451
(EC §451 or EC Sec. 451)

Judicial notice shall be taken of:

(a) the decisional, constitutional, and public statutory law of this state and of the United States and the provisions of any charter described in Section [1] 3, 4 or [2]5 of Article XI of the California Constitution.

(b) Any matter made a subject of a judicial notice by Section 11343.7, 11343.8, or 18576 of the Government Code or by Section 1507 of Title 44 of the United States Code.

(c) Rules of professional conduct for members of the bar adopted pursuant to Section 6076 of the Business and Professions Code and rules of practice and procedure for the courts of this state adopted by the Judicial Council.

(d) Rules of pleading, practice, and

procedure prescribed by the United States Supreme Court, such as the Rules of the United States Supreme Court, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Admiralty Rules, the Rules of the Court of Claims, the Rules of the Customs Court, and the General Orders and Forms in Bankruptcy.

(e) The true signification of all English words and phrases and of all legal expressions.

(f) Facts and propositions of generalized knowledge that are so universally known that they cannot reasonably be the subject of dispute.

CALIFORNIA EVIDENCE CODE
SECTION 452
(EC §452 or EC Sec. 452)

Judicial notice may be taken of the following matters to the extent that they are not embraced within Section 451:

(a) The decisional, constitutional, and statutory law of any state of the United States and the resolution and private acts of the Congress of the United States and of the Legislature of this state.

(b) Regulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States.

(c) Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.

(d) Records of (1) any court of this state or (2) any court of record of

the United States or of any state of the United States.

(e) Rules of court of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.

(f) The law of an organization of nations and of foreign nations and public entities in foreign nations.

(g) Facts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute.

(h) Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.

CALIFORNIA EVIDENCE CODE
SECTION 453
(EC §453 or EC Sec. 453)

The trial court shall take judicial notice of any matter specified in Section 452 if a party requests it and:

(a) Gives each adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and

(b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.

(a) [Form and content of petition] A petition to a reviewing court for a writ of mandate, certiorari, or prohibition, or for any other writ within its original jurisdiction, must be verified and shall set forth the matters required by law to support the petition, and also the following: (1) if the petition might lawfully have been made to a lower court in the first instance, it shall set forth the circumstances which, in the opinion of the petitioner, render it proper that the writ should issue originally from the reviewing court; (2) if any judge, court, board, or other officer or tribunal in the discharge of duties of a public character benamed therein as respondent, the petition shall disclose the name of the real party in interest,

if any, or the party whose interest would be directly affected by the proceeding; and (3) if the petition seeks review of trial court proceedings that are also the subject of a pending appeal, the title of the petition shall include the notation "Related Appeal Pending", and the first paragraph shall set forth: (i) the title, superior court docket number, and appellate court docket number, if any, of the pending appeal, and (ii) if the petition is brought pursuant to Penal Code section 1238.5, the date of filing of the notice of appeal.

The cover of the petition shall contain the title of the case, the name, address and telephone number of the attorney filing the petition, the name of the trial judge and the number of the case in the trial court, if any, [As amended effective July 1, 1980; previous-

ly amended effective July 1, 1976.]

(b) [Points and authorities and service] A petition for the issuance of such a writ shall be accompanied by points and authorities and, except as provided in Code of Civil Procedure section 1088.5, by proof of service of both on the respondent and any real party in interest named in the petition. Except as provided in Code of Civil Procedure section 1089.5, within five days after service and filing the respondent or any real party in interest or both, separately or jointly, may serve and file points and authorities in opposition, and a statement of any fact considered material not included in the petition but the court in its discretion (1) may allow the filing of the petition without service, and (2) may act on the petition without requiring the prior filing of

opposition. [As amended effective January 1, 1983; previously amended effective January 1, 1951, and July 1, 1964.]

(c) [Return] If the petition is granted, with or without prior service or opposition, and a writ or order to show cause issues, the respondent or real party in interest or both, separately or jointly, may make a return, by demurrer, verified answer or both. Unless a different return date is specified by the court, the return shall be made at least five days before the date set for hearing. If the return is by demurrer alone, and the demurrer is not sustained, the peremptory writ may issue without leave to answer. [As amended effective January 1, 1959; previously amended effective January 1, 1951.]

(d) [Proceedings not covered by this rule] The provisions of this rule shall not apply to applications for a writ of habeas corpus, or to petitions for review pursuant to rules 57, 58 and 59.

CALIFORNIA RULES OF COURT
RULE 63

(a) The superior court on application of a party or on its own motion may certify that the transfer of a case to the Court of Appeal appears necessary to secure uniformity of decision or to settle important questions of law. The certification may be made by a majority of the judges of the appellate department. When there was a trial in the superior court, the judge who tried the case may make the certification. If any judge of the appellate department who participated in the decision is unable to act on the certification, then a judge designated or assigned to the appellate department by the chairman of the Judicial Council may act in his place. If the judge who tried the case is unable to act, then the certification may be made by a judge desig-

nated by the presiding judge or, if there be no presiding judge, by any judge of the court.

(b) Any party may apply to the superior court for the certification of a case after judgment in that court. If there was no trial in the superior court such application shall be served and filed before the judgment on appeal becomes final as to that court and may be included in any petition for rehearing. If there was a trial in the superior court the application shall be served and filed at least 10 days before expiration of the time for certification. Any other party may serve and file an opposition within five days after the filing of the application. No hearing shall be held on the application and the failure of the court to certify the case shall be deemed a denial of the application.

CALIFORNIA RULES OF COURT
RULE 107

(a) [Time for rehearing] At any time before a judgment of an Appellate Department becomes final, as hereinafter provided, it may vacate such judgment and order rehearing.

(b) [When judgment becomes final] Unless a rehearing is ordered, every judgment of an appellate department shall become final as follows:

(1) Upon the expiration of 15 days after the judgment is pronounced, unless a petition for rehearing is filed within that time;

(2) If a timely petition for rehearing is filed, upon the expiration of 30 days after the judgment is pronounced or upon the denial of all such petitions, whichever is earlier.

(3) Where the judgment is

modified before it becomes final as above provided, the period specified herein begins to run anew, as of the date of modification; but a change of the opinion without modification of the judgment does not postpone the time when the judgment becomes final. [As amended effective July 1, 1980.]

(c) [Petition, answer and determination] A petition for a rehearing shall be served on all adverse parties before filing, and filed within 15 days after the judgment is pronounced, and shall not be filed unless accompanied by proof of service. An answer to the petition may be served on the petitioning party and filed, if accompanied by proof of service, within eight days after service of the petition. If a rehearing is ordered, the appellate department may place the case on the calendar for

further argument or submit it for decision. [As amended effective July 1, 1980.]

(d) [Computation of time] The periods of time specified in this rule shall be computed as provided in the Code of Civil Procedure, and extended in the cases and to the extent specified by section 12a of said code, but shall not be otherwise extended.

CALIFORNIA RULES OF COURT
RULE 121(a)

(a) [Form of notice] An appeal in a civil case, except a small claims case, from a judgment of a municipal or justice court or from a particular part thereof is taken by filing with the clerk of that court a notice of appeal therefrom. The notice shall be signed by the apellant or by his attorney and shall be sufficient if it states in substance that the appellant appeals from a specified judgment or a particular part thereof. A notice of appeal sahll be liberally construed in favor of its sufficiency. [As amended effective January 1, 1977; previously amended effective July 1, 1964.]

CALIFORNIA RULES OF COURT
RULE 125(a)

(a) Within 10 days after filing the notice of appeal, the appellant shall serve on the respondent and file with the clerk of the trial court a notice designating the paper or records on file or lodged with the clerk, including the clerk's minutes and any written opinion of the trial court and exhibits either admitted in evidence or rejected, and any notices, affidavits, orders, and written instructions given or refused, which he desires incorporated in the record on appeal. The notice designating papers and records and the notice to prepare the reporter's transcript may be included in the same document, and both notices may be included in the document containing the notice of appeal.

CALIFORNIA RULES OF COURT
RULE 127(a)

(a) [Proposal of narrative statement] If, in lieu of a reporter's transcript, the appellant desires to set forth the oral proceedings by a settled statement, he shall serve and file a notice so stating within 10 days after filing the notice of appeal. Within 20 days thereafter the appellant shall serve and file a condensed statement in narrative form of all or such portions of the oral proceedings as he deems material to the determination of the points on appeal. Where necessary for the purposes of accuracy, clarity or convenience, portions of the evidence may be set forth by question and answer, subject to the approval of the court in settling the statement. If the condensed statement purports to cover only a portion of the oral proceedings,

the appellant shall state the points to be raised by him on appeal, and in such event shall be precluded from presenting any grounds for reversal not embraced within the points stated by him unless the reviewing court, on motion, shall permit him to present additional errors or grounds of appeal on such terms as it may prescribe. Within 10 days after service of said narrative statement the respondent may serve and file his proposed amendments thereto. The appellant in his condensed statement and the respondent in his proposed amendments may incorporate any oral instructions given or refused which such party deems material.

Other:

American Jurisprudence, Volume 7,
2d Edition, Section 4

[An attorney] has a duty to support the constitutions and laws of the United States and the states.

American Jurisprudence, Volume 7,
2d Edition, Sections 2 and 5

An attorney is an officer of the court.

California Jurisprudence, Volume 7,
3d Edition, Section 45

Every person on his admission [to practice law] shall take an oath to support the Constitution of the United States and the Constitution of the State of California,....